

ORDER NO. 4005

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Contract 242 (MC2016-203)
Negotiated Service Agreements

Docket No. CP2016-292

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued July 17, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to Priority Mail Contract 242, with Portions Filed Under Seal, July 14, 2017 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 3549, the Commission approved the Priority Mail Contract 242 negotiated service agreement (Existing Agreement).² On July 14, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement.

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *See id.*

II. COMMISSION ANALYSIS

The Commission has reviewed the Notice, and the accompanying materials filed under seal.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement included an implementation period which ran from the effective date of the agreement until the end of the first full calendar quarter and established marketplace and third party rate extension requirements.³ The Amendment

² See Docket Nos. MC2016-203 and CP2016-292, Order Adding Priority Mail Contract 242 to the Competitive Product List, October 4, 2016 (Order No. 3549).

³ Docket Nos. MC2016-203 and CP2016-292, Request of the United States Postal Service to Add Priority Mail Contract 242 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 23, 2016, Attachment B at 2, 6.

extends the implementation period until the end of the second full calendar quarter and adds additional marketplace requirements and terms. Notice, Attachment A at 1.

The Amendment does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

Other considerations. The Postal Service states that the Amendment shall become effective two days after the date that the Commission completes its review. *Id.* The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁴

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Contract 242 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

⁴ Order No. 3549 at 6. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.